

A Friendly
CONFERENCE
 Concerning the New
Oath of Allegiance

TO
 K. *WILLIAM*, and Q. *MARY*,

WHEREIN

The Objections against taking the Oaths are
 impartially Examined,

AND

The Reasons of Obedience Confirm'd, from
 the Writings of the profound Bishop *Sanderson*,

And proved to agree to

The Principles of the *Church of England*, and
 the Laws of the Land.

By a Divine of that Church.

Licens'd, April 19. 1689.

James Fraser.

L O N D O N :

Printed for *Samuel Smith*, at the *Princes Arms* in
St. Paul's Church-yard, 1689.

A Friendly
CONFERENCE
 Concerning the New
Birth of Allegiance

TO
 K. WILLIAM and G. MARY

WHEREIN
 The Objections against taking the Oaths are
 impartially Examined,

AND
 The Reasons of Obedience Condemned from
 the Writings of the Protestant Divines

And proved to agree to
 the Principles of the Church of England, and
 the Laws of the Land.

By a Divine of that Church.

London, April 19. 1689.
 Printed by J. Streater.

L O N D O N.
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 St. Paul's Church-yard, 1689.

A DIALOGUE

Concerning the New

Oath of Allegiance.

C. **S**IR, I am very happily fallen into your company, which, tho' I always loved, yet now I covet it upon an extraordinary occasion ; and that, like a friend, I may apply my self without ceremony to you, I shall inform you, that I have lately met with the *New Oath of Allegiance*, which, is said, to be required of all persons in Office, about which I have some scruples ; for tho' I am very willing to serve my Country, yet I would also as willingly save my Conscience.

W. It were great pity, that persons of your worth and integrity, should at this time desert your publick stations, while you may in such a *critical* conjuncture be instruments of much good to both *Church* and *State* ; and I know, that nothing but just reasons could incline you to refuse to act, as becomes you.

C. Perhaps both my self, and others, might easily be continued in our Offices, and a series of good men put into publick Employments for the future, if it were thought fit not to press so earnestly the taking of the *New Oath*.

W. But what security can *the King* have of the fidelity of his Subjects, unless they bind themselves to obey him by an *Oath of Allegiance* ? since an Oath is the strongest obligation to duty.

C. And

C. And I wish, that Oaths could, and did bind all, that take them; and that I my self could be satisfied of the lawfulness of this.

W. Tho' I suspect my own Abilities, yet I will for this time sacrifice my Discretion to my Zeal, and if I fail in my Argument, I am sure, I shall not fail in my Intentions to serve you.

C. I desire you, without any Apologies, to address your self to this task.

W. And that I shall chearfully, and readily, when you have told me your Scruples, that hinder your taking the Oath.

C. Two things I fear very much, should I take it, viz. (1.) *Left I should be Hang'd;* And, (2.) *Left I should be Damn'd,* for doing it.

W. These are great Fears indeed: but I hope you only fear *where no fear is*, (i. e.) when you have no just cause for it. For, what reason can you have to fear *Hanging* on this account?

C. *What reason*, do you ask—? Is it not Treason in the highest nature that can be, to swear Allegiance to a new King, when my old and true K. is alive? and is not Treason a Capital Crime?

W. Not so fast, my good old Friend. For I believe you'll find your self mistaken, and that, in the present circumstances, it is neither *Treason*, nor *Capital*, to swear Allegiance to King William and Queen Mary, according to the Laws now in force in the Nation.

C. What Laws (I pray you) are there, that can excuse me from Treason, if I should take this new Oath? You would highly oblige me, (Sir) if you will shew me them.

W. I cannot but think (however other things may have at present put it out of your head) that you have heard of such a Maxim of Law as this, *Corona tollit omnes defectus*.

C. Yes, that I have; the Lawyers found it upon *Henry the Seventh's* enjoying the Crown, notwithstanding an Attainder of High-Treason, that stood unrepeal'd against him; and they did not think it worth the while to repeal it, because of that legal Maxim, *That the Crown takes away all manner of defects*.

W. If

W. If this be a true Maxim of our Law, then how can any man be guilty of Treason for obeying such Laws as are made by the King in possession, and his Parliament?

C. I'll tell you, Sir, why he is still guilty of Treason, *viz.* because that Maxim is only understood of defects in the person of the King, not in his title to the Crown, (*i. e.*) the possession of the Crown takes off the guilt of any capital Crime, as Murder, Treason, &c. from the person of the King, so that he cannot by his Subjects (because they are then his Subjects) be brought to any legal trial, or arraign'd for them; but it does not give him a just right or title to the Crown, if he had it not before.

W. But Subjects are not bound to examine the Titles of Kings; their Rights are above our reach.

C. But here the right of the Crown is so evidently in another, that no man can doubt, to whom it belongs.

W. Let me ask you (Sir) one Question, *viz.* Was not the Right and Title to the Crown apparently in Henry the Seventh his Wife, and not in him?

C. I must (indeed Sir) own, that she was of the House of York, who had the undoubted right and title to the Crown, and that she was the undoubted Heiress of that Family; and that Henry the Seventh derived his Title only from his Ancestors of the House of Lancaster, who were originally ~~men~~ Usurpers of the Right of that other Family.

W. Very well, Sir: And do you not own, that our Laws are the best Interpreters of all legal Maxims?

C. Yes, Sir, this I think is most reasonable to be acknowledged.

W. Then I need not ask any more. For have not our Laws made such an interpretation of the Maxim before urged, *viz.* That the possession of the Crown doth so far take off all defects of title, as that the Subject shall be indemnified in his obedience? Now tho' this Law cannot render a King safe in *forô internô*, but that if he hath unjustly taken another man's right, he must answer it before God; yet surely it secures both him and his Subjects in *forô externô*; so that neither he for commanding things necessary for the support of the Government, nor they for obeying him in such things, can be call'd to any account, or punish'd by men.

C. This I must grant: but (I pray Sir) where is there any such Law?

W. If you please to look in *Keeble's Statute-Book*, p. 318. (*undecimo Henrici 7. c. 1.*) there you may see it.

C. I

C. I pray Sir, read the words to me.

W. That I shall most readily do. In the Preface to the Act it is acknowledged, THAT IT IS NOT REASONABLE, BUT AGAINST ALL LAW, REASON, AND GOOD CONSCIENCE, THAT THE SUBJECTS GOING WITH THEIR SOVEREIGN IN WAR, &c. SHOULD LOSE OR FORFEIT ANY THING FOR DOING THEIR TRUE DUTY AND SERVICE OF ALLEGIANCE.

This is the very reason and ground of the Law, as appears by the following words of the Statute, which are these: *it be therefore ordained, enacted, and established by the King our sovereign Lord, by the advice and assent of the Lords Spiritual, and Temporal, and the Commons in this present Parliament assembled, and by authority of the same, that from henceforth no manner of person or persons whatsoever be or they be, THAT ATTEND UPON THE KING, AND SOVEREIGN LORD OF THIS LAND FOR THE TIME BEING, in his person, and do him true and faithful service of Allegiance in the same, or be in other places by his command in his Wars within this Land or without: that for the said deed, and true duty of Allegiance, be or they be in no wise convicted or attaint of High-Treason, ne of other offences for that cause, by Act of Parliament, or otherwise, by any process of Law, whereby be, or any of them shall lose or forfeit Life, Lands, Tenements, Rents, Possessions, Hereditaments, Goods, Chattels, or any other things: but to be for that deed, or service, utterly discharged of any vexation, trouble, or loss. And if any Act or Acts, or other process of Law hereafter thereupon, for the same happen to be made contrary to this Ordinance, that then that Act or Acts, or other process of the Law, whatsoever they shall be, stand and be utterly void.*

C. This I think is plain and full enough. For if I may lawfully perform any Act of Allegiance to any King for the time being, then certainly I may, without any danger, promise or swear such Allegiance to any King in fact, tho' he be not a King of right. But may not this Law be made in respect of Henry the Seventh's right of Conquest, by which he held the Crown, and doth not this very much alter the case from our present state of affairs?

W. The Act expresseth no such thing, but the quite contrary; for the reason of it is this, because it is contrary to all Law, and good Conscience, that the Subject should suffer or lose any thing for doing service to his King. And as for the right of Conquest, tho' our present King doth not pretend to it, yet I can see no reason, but he hath as
good

good a right that way, as ever *Henry* the 7th had, or could pretend to.

C. What that of Conquest? I cannot but smile to think you should imagine that there can be any Conquest without so much as a Sword drawn: *Henry* the 7th fought a famous Battle and was Victor therein, but King *William* never so much as struck a stroke for it.

W. Your smiling, Sir, will not alter my Opinion, no more than the reason you give; for may not a Victory be yielded without fighting? May not a Nation be conquered by a major party within it self? Nay, was *England* ever conquered otherways.

C. I remember indeed, a saying of the wife and great *Cecil's* viz. that *England* is a *Vivacious Animal*, that can never be destroy'd, but by itself: And our own People were the Conquerors under *Henry* the 7th; nay, I think neither the *Romans*, *Saxons*, or *Normans* ever could have conquered us, but by our own Assistance, and consent of the majority amongst our selves: But would not this incense the Nation against the present King, to set up a Title of Conquest for him?

W. I cannot see any reason for it, truly Sir, for hath he not already limited his right of Conquest, by referring himself wholly to his People, and accepting the Crown upon such terms as *their Representatives in Convention* thought expedient for the good of the Publick? And is not the agreement still firm (notwithstanding his right of Conquest) that was made with the *Kentish-men*, by *William* the *Norman-Conqueror*, and have they not constantly enjoyed their native Rights, Laws, and Customs?

C. All this is very true: So that till I see further, I cannot but own that we may as lawfully swear Allegiance to King *William*, as *Henry* the 7th his Subjects could do to him, and are in no more danger of Treason, then they were in so doing: But yet there is one thing that makes me think our danger greater then theirs, viz. that if King *James* the 2d. should return by force (as he, that hath seen these last Revolutions can think nothing of that kind impossible) those that take this new Oath would be in most apparent danger to be utterly ruin'd by him.

W. Suppose all that you fear; yet according to Law we can be in no danger of ruin by him, for swearing Allegiance to the present King, because the Law doth indemnifie us for it: But if we refuse to take the Oath of Allegiance to him, that is in the pos-

session of the Crown, doth not the Law itself put it into his power to take away our Estates and Liberties?

C. Yes, Sir, I am sensible that the Refusers (if it be tendred to them) are punishable by Law with *Præmunire's*, and *Imprisonment without Bail or Main-prize*.

W. You would do well then to consider, who is safest, he, who suffers for obeying, or who suffers for breaking the Law? And if King *James* return and resolve to punish contrary to Law, no other *Protestant* would be more safe, than those who have taken the Oaths.

C. My second objection is, *The fear of being damn'd, if I should take this new Oath of Allegiance.*

W. This is indeed infinitely a greater fear than the former, and therefore the objection ought to be answered with all the care that can be; and I doubt, will take up much more time in the due Examination of the Reasons for it, which I pray propose to me without further delay.

C. You cannot certainly be ignorant of the Reason, *viz. That it is a wicked Oath; and therefore that it must be a damnable Sin in me to take it.*

W. But why (I pray) is it a wicked Oath?

C. First, from the matter of it considered either in itself, or in respect of me who have reason to think that I am by right subject to another Person.

Secondly, from the Authority that imposed it, which I do not think is a lawful and sufficient power to ordain such an Oath. Now I know that in these Cases Bishop *Sanderfon* (the best and most impartial Casuist that I know, or ever heard of) tells me an Oath is altogether unlawful.

W. No man hath a greater Reverence for his Judgment, than my self; and no man hath, or can give me greater satisfaction then that Right Reverend and Judicious Bishop in the very point now in debate betwixt us.

C. Say you so Sir? No man's determination can have a greater influence upon me, than his, for certainly no man ever determin'd any Cases of Conscience more fully and clearly then he doth.

W. Why then Sir, I think we are agreed to submit the whole to his Determination.

C. Onely where I think there is any just exception, give me leave to propose it for my fuller satisfaction.

W. With

(7)

W. With all my Heart, Sir.

C. Doth he not then in the plainest manner condemn any Oath, where the matter of it is unlawful, of which you may see his Judgment in his third *Lect. de Juramenti obligatione*, Sect. 7. pag. 57.

W. Yes, Sir, in the plainest terms that can be. His words are these: *Rem illicitam dico, quæ sine peccatō fieri non potest. Est autem hoc genus juramenti ad id illicitum, ut non solum is peccat qui sic jurat, sed & is quoque, qui alium ad sic jurandum auctoritate, consilio, aut aliō quocunque modō impellit, inducitve. That thing I call unlawful which cannot be done without Sin: But such a kind of Oath is so utterly unlawful, that not only he sins that takes it, but he also that by his Authority, or Advice, or any other way, doth compel, or persuade a man to swear to any such thing.*

C. Well, Sir, have a care then how you endeavour to persuade me to any such Oath; for if you please to read on, he gives you a full, and satisfactory Reason why a man that takes such an Oath must necessarily commit a Sin. For saith he, *Peccat qui sic jurat, siue intendat facere quod juravit, siue non intendat. Si intendat, peccat volendo rem illicitam, & sic non jurat in justitiā: Si non intendat, peccat mentiendo, & sic non jurat in veritate. He who swears so (i.e. to any unlawful matter) sinneth whether he intends to perform it, or doth not intend it. If he doth intend it, he sins by designing an unjust thing, and so swears not in Righteousness: If he doth not intend it, he sins by lying, and so swears not in Truth. And this latter is certainly a very great Sin; for he that swears, and doth not intend to perform his Oath, especially in any matter of Promise, (as this of *Allegiance* is) not only lies to Man but to God; and affronts the Divine Majesty in the highest manner, by calling God to be a Witness to the truth of that which he knows to be a lie; and to punish him if he breaks his Oath, and yet resolves before-hand not to observe it.*

W. 'Tis very true, for what can be a greater Affront to God's infinite Wisdom, or contempt, and mockery of his infinite Power? So that did I not think the matter of this Oath lawful, I must own my self guilty of the greatest fault to persuade you to take it.

C. Nay, Sir, I am very confident that you have satisfied your self in it, and therefore wish you would do the same to me.

W. To proceed then ; I pray you (Sir) tell me *what the matter of this Oath is ?*

C. To bear true and faithful Allegiance to K. W. &c.

W. And do you not think it is lawful to pay him true and faithful obedience, so long as he is in fact the King ?

C. That is the very thing I would be satisfied in.

W. Had you lived in the days of the late *Usurper*, whose Actions need neither comment, nor censure, would you not have thought it a great breach of the Laws of Obedience, to have submitted to that *Usurper* ?

C. I did live in his time, but I never voluntarily submitted to any of his Commands ; and what I did out of necessity, and by compulsion, I hope, God will forgive me.

W. I question not but he will forgive it ; and your old friend, Bishop *Sanderson*, puts it out of all question. Let me therefore ask you one Question more. *Do you think it more unlawful to pay true Allegiance to King William, than it was to pay it to that Usurper.*

C. No truly, there can be no reason to think so.

W. Very good. Yet Bishop *Sanderson* will tell you, that it is lawful, nay, a Duty to obey him.

C. Say you so, Sir---? whereabout I pray you?

W. If you please to look in his Book, *De Oblig. Conscient.* p. 176. *Prælect.* 5. *Seçt.* 16. you will find it most plainly asserted.

C. Oh, Sir ! I long to hear the words.

W. The words are these, which I will now read to you : *Ceterum ubi quis pulso vi & armis legitimo principe, regnique herede eo tamen adhuc superstiti, imperii habenas accipit, & se pro Rege gerit, &c.* In English thus : But when any man by Force and Arms hath driven away the lawful Prince, and Heir of the Kingdom, be being still alive, and hath got the power of the Realm into his own hands, and behaves himself as King, when he is more truly an Invader of the Kingdom, than a King ; so that there is no doubt, but that the right Heir hath manifest injury done him : If you inquire, what I think is to be done in this case by a good Subject, who hath sworn Allegiance to his lawful Prince, or if he hath not sworn, yet oweth him as much allegiance as though he had ? I answer, it seems to me, that it is not only lawful for a good Subject to obey those Laws, that are made by him who possesseth the Su-

preme

preme Power in fact, though not by right, and to execute all other his Commands (if he commands nothing that is in it self dishonourable, or unjust ;) but also the necessity of affairs may and do most frequently so require it, that if he doth it not, he is to be thought to be wanting to his own duty.

C. The Case (I confess) he hath put so home, as if he meant it of the late Usurper, tho' the Lectures were read Anno 1647. but his determination seems so very strange to me, that I cannot be fully satisfied with his opinion, till I see some sufficient reasons for it.

W. No man was better able to give reasons for his own opinion, than himself. I shall therefore produce them to you (in the first place) which he builds upon, and after that, I suppose (Sir) you will need no other for your full satisfaction.

C. I pray you (Sir) proceed. For why, a good Subject should be wanting to his duty, if he doth not obey an Usurper's commands I cannot yet see, nor from whence that duty can arise.

W. This that right-Reverend Author will soon tell you, (*ibid.* p. 177. *ad fin.*) *Oritur ergo ista obligatio, &c.* This duty arises from two other duties, 1. That which every man owes himself. 2. That which he owes to his Countrey.

C. As to the first ; the duty that every man owes to himself, is to preserve himself, his Estate, and his Family, and to endeavour by all lawful means to live in peace with all men, and not to offend his present Governors, because he knows all that he hath, as well as his own life, is in their power.

W. And therefore the Bishop argues, (*ibid.* p. 178. *lin.* 10.) That from hence the first necessity of obedience doth arise. *Quam propterea non tam urget Apostolus, quam supponit, &c.* Which necessity therefore the Apostle (Rom. 13. 5.) doth not so much urge, as suppose, when he saith, ye must needs be subject, not only for wrath, &c. as though a sense of this was natural to every man ; as if he was a mad man, that would rashly provoke him to wrath, who hath the power of the sword : and (as he proceeds) would by his contumacy incur his displeasure, when no necessity doth require it : And as he concludes that 17th Section of his fifth Lecture ; Therefore it becometh every man, as the shortest way for his own happiness. (*Quoad sine peccato fieri potest*) this *utis* *Quia* *conscientia*, so far as he can without sin, to obey the present Go-

vernours that are set over him, and to submit to their Laws; and so by well-bearing that yolk which he cannot shake off, to make it something more light, easie, and tolerable.

C. This is a good Rule in prudence; but I don't apprehend, that it ought much to sway in conscience; for worldly wisdom is commonly the greatest enemy to our true (i. e.) our eternal interest.

W. Certainly, Sir, if (as St. Paul saith, 1 Tim. 5. 8.) He that provides not for himself, and especially those of his own family, hath denied the faith, (i. e. in his works) and is worse than an infidel; what words can expels his crime, who for not doing that which is in it self lawful, in obedience to the Powers that are set over him, shall thereby forfeit or lose what God hath lent him for the maintenance of himself, and his Family? for not only prudence, but conscience; not only my temporal, but my eternal interest binds me to this duty, which I owe to my self, and those under my care.

C. The light of Nature binds me to it, and therefore much more the light of Scripture being superadded. For certainly our blessed Saviour intended to perfect, not to cancel the laws of Nature by the laws of his Religion: and the design of the holy Scriptures was to make us wise unto salvation, not fools to our selves and our posterities.

W. The Bishop tells us his next reason is stronger than the former, and doth more immediately touch the conscience. *Ibid. Sect. 18. p. 178.*

C. I pray you, Sir, let me hear it.

W. His second Reason is taken from the law of Gratitude, which he well calls, *optima æqui boni Lex, the best Law of right and equity. Ib. p. 180. lin. 12.*

C. How doth he argue from thence? For indeed nothing can be a more free and generous Argument, than Gratitude, and nothing more becoming a Gentleman's consideration: and on the contrary, nothing more mean, vile, and base, than Ingratitude.

W. In the same place (*p. 180. lin. 5.*) you'll find him arguing most demonstratively from that Topick, in these words: *Cum itaq; quid rerum nostrarum Domini sumus, &c.* Since therefore we owe it to the Supreme Powers, that we possess, and are Masters of those things,

things, which are our own; that we live safe from Rapine and Murder, nay, that we live at all, *aquissima res est, ut pro tot, &c.* it is the most equal and just thing in the World, that for so many, and so great Benefits, we should return something to them. And he concludes that eighteenth Section with these remarkable words: *Et protectio perversissima mentis est, sub illius dominationis patrocinio velle vivere, cui parere nolis: & cujus protectione gaudeas, ejus imperium detractare.* And therefore it is the part of a most perverse mind to desire to live under the patronage of his Government, whom you will not obey, and to detract from that Government, by which you enjoy protection.

C. This Argument (I confess) is far more forcible upon us under our present circumstances, than ever it was, or indeed can be supposed to be. Were not our Laws, Liberties, Properties, nay our Religion it self, apparently invaded, by the late *Dispensing Power*? Did they not thereby aim at both our *Universities*, the very Fountains of Religion and Learning? Were not our *Bishops* sent to the Tower, for keeping a good Conscience, and standing firm to the Laws of the Nation, and tryed as the highest Criminals, only for doing their Duty as the best of Men? Were not all the honest Nobility, Gentry and Clergy of the *Church of England* struck at at once, who would not comply with their devices for ruining our Church and Nation? Nay! had not his present Majesty so freely and generously, with so much hazard, charge and trouble to himself, come in to our aid, it had been a great question long before this time, whether we should have had any Law, but that of the Sword; or any Religion, but that of *Papish Superstition and Idolatry*; or lastly, any Arguments to have enlightened our understandings, but those of Fire and Faggot, or the illuminations of Dragoons, those tender-hearted *booted Apostles*, sent by the *Jesuits* to convert us, by begging and destroying both us and our Families?

W. You see then, what great reason there was out of meer gratitude, to offer the Crown to him, who had so highly obliged us, and so apparently preserved us.

C. Yes, (Sir) to keep it upon his head, by our due obedience to him, since the publick safety doth exact it from us. For what can we expect, but utter destruction, should things

things (by our disobedience to the present Government) be return'd again into the former course, (*i. e.*) into their hands, whose very Religion binds them in the strictest obligations that can be to destroy us?

W. Now (Sir) you have brought me to the next reason that Bishop Sanderſon urgeth, which he calls *tertia parèndi neceſſitas*, &c. *ibid.* Sect. 19. *the third neceſſity of obeying* the preſent power, by what right ſoever it is obtained; which (he ſaith) ariſeth from hence, becauſe no man is born for himſelf alone, but for the publick good of humane kind; from whence alſo he tells us the manner and end of our obedience may be determined, viz. from the end and deſign of Civil Government.*

C. And in what doth he place the end of Civil Government?

W. His words are theſe, *Civilis regiminis finis*, &c. *eſt humanæ ſocietatis ſalus, & tranquillitas*, *ibid.* p. 181. *The end of Civil Government, and of that obedience which is due to it, is the ſafety and tranquillity of Mankind.*

C. So that whatſoever is neceſſary to the ſafety of Mankind, he ſaith we are bound in conſcience to do, in obedience to any one, that hath the Supreme Power in fact.

W. Yes, Sir, you ſpeak his full ſenſe, and very near his very words; nay, in the ſame place, he reckons up three things in which we are particularly obliged to obey the preſent Powers, becauſe they are abſolutely neceſſary to the publick good.

C. I pray you, (Sir) what are they?

W. (1.) *Defenſio Patriæ*, *The defence of our Country againſt foreign Enemies*: and I think I may add againſt Seditions at home.

(2.) *Adminiſtratio Juris*. *The Execution of Laws, by which Rewards and Punishments are duly adminiſtered, as by Law eſtabliſh'd.* And theſe, Sir, you know are particularly your province: ſo that you cannot but ſee your ſelf bound in conſcience to keep your Commiſſions both of the Peace and Militia.

(3.) *Commercii cura*. *The Preſervation and Encouragement of Trade.* For in theſe three things the welfare of Mankind doth ſo much conſiſt, that without them it will be impoſſible but that all things muſt run to ruin, and all places be fill'd with Frauds, Injuries, Rapines, and Murders.

C.

C. But (as I remember, Sir,) he hath one limitation at the end of this discourse, which seems to contradict all that he hath said before of this matter, *viz. de conscient. prælect. 5. p. 183. l. 2.*

W. It is this I believe, *Proinde Regni invasori sic præstandum est obsequium, ut fidelitas legitimo hæredi debita nullatenus violetur, nec aliquid fiat in juris sui præjudicium.* Moreover, Obedience is so to be paid to the Invader of a Kingdom, so as the Allegiance due to the lawful Heir be no way violated, nor any thing done to the prejudice of his Right.

C. Yes, Sir, those are the very words: but (as it follows Sect. 21. *ibid.*) how can this be done? For that which is pleasing to the Invader of a Kingdom, how can it but be most displeasing to the lawful Prince?

W. This indeed appears a very forcible objection; but he hath (in the very same page) given so full and clear an answer to it, that it may pass for the fourth and last, and (as I think) the strongest reason for our Obedience to any person whatsoever (even during the very life of the right Heir) that is in possession of the Crown.

C. This I imagine is the main difficulty, and therefore would be very glad to see it fully answered.

W. His Words are these, *Respondeo rite subductis rationibus, non esse cur putemus legitimo principi sed extorri ingratum, &c.*

C. If the Quotation be long, I pray you, Sir, read it in English, for I know where to find it (*viz. pag. 183. l. 12. ibid.*) and so may (if there be any occasion) compare the translation with the Original.

W. Well, Sir, because you desire it, I shall hereafter always observe this method in discoursing with you.

C. Sir, you will extremely oblige me therein.

W. The translation follows: I answer, all things rightly considered, there is no reason to think that our Obedience to an unjust Possessor of the Crown, in the manner, and for the ends aforesaid, should be at all displeasing to the lawful Prince, though in banishment; but rather it is to be presumed, that our lawful Prince will consent to it, that Allegiance ought to be so paid to an Invader, since it is not to be thought so much for the advantage of him that unjustly hath the power, as of the whole Community; the safety of which, is far more the Interest of the Right Heir, than of him who hath the possession without Right.

C. So one would rationally conclude.

W. Especially if we consider that instance of the two Harlots, who contended before Solomon, 1 Kings, 3. 26. for the true Mo-

thers affections were so great towards her Child, that rather than it should be hurt, she condescended to part with her right in it to the false Mother.

C. That very example (as I remember) the *Bishop* makes use of.

W. Yes, Sir, and from thence seems to argue *that the true Father of his Country*, cannot but have so much affection for it, that rather than it should be destroyed, or his Subjects (which may be rightly deem'd his Children) should be murdered, we cannot but think he will so far recede from his right, at present, as to consent, nay, to desire, *that for their safety, they should rather modestly accommodate themselves to the present affairs; than that by their unreasonable resistance, they should bring upon themselves certain destruction.*

C. Or if he have not such concern for them, I think we may conclude him to be a *very unnatural Father*, and not fit to exercise his *Paternal Power*.

W. Nay, I think from hence, we may conclude that he gives *his tacit consent* for our obedience to the present Governours, or else that he himself is not *compos mentis*, and so his consent is neither to be required nor regarded. But perhaps, you have something to except against *the lawfulness of the matter of the Oath* in question?

C. I find nothing, at present, against the *matter of the Oath* in it self considered, but many things that may render it *unlawful to me*, though it be never so *lawful in it self*.

W. This, I remember, is the second objection against it. If you please to tell me what it is that you think may make it unlawful to you, I shall endeavour to answer as well as I can.

C. The first thing is this, that none of those reasons you have given for Allegiance, do reach me in my Station, and therefore I am bound to decline such an Oath, and yet still to live quietly, and peaceably, under the Government.

W. But why are you hence bound to decline the Oath?

C. Because as *Bishop Sander* saith, *Debere hominem pium, &c. that a Man of true Courage and Religion, ought as much as lies in him, altogether to forbear taking all Oaths that are imposed by him that hath not a lawful authority.* De Juram. Oblig. pag. 97. lin. 16.

W. As to the Authority enjoining the Oath, we may have an occasion hereafter to discourse of it. But how if all those reasons do most fully concern you, and every honest Gentleman that I urged before, will you not then conclude your self bound in Conscience to take this Oath?

C. But

C. But how can this be? for are there not men enough that may serve the King better than my self? or at least as well? why then doth gratitude to him, or the concern for my private, or for the publick good oblige me to take any other office upon me, when both may be better served without it? and may not I continue in a private station without taking these Oaths, and provide well enough for my self, and my family?

W. Consider (I beseech you Sir) if every honest Gentleman in England should argue as you do, and so quit all publick employments because they will not take the Oaths, how excellently would our Church and Nation be governed, how securely would honest men be protected, and how abundantly would the publick safety be secured by those that would be left in office, viz. by men of neither sence nor honesty.

C. But why must every one argue so because I do?

W. May not every other man deduce the same conclusion from the same premises, as well as you. Neither would you find your self and family in a much better condition than the Community: For if you should at this time of the day quit your publick station and refuse the Oaths, would you not thereby expose your self to be look'd upon as a person disaffected to the present Government, and so be exposed to the anger of the Governours, and the rigour of the Laws?

C. What Law I pray Sir? There is no Law can hurt me for refusing the Oath as long as I keep my self in a private station, and take no publick office upon me.

W. This is the very same mistake that I my self was liable to till I took the pains to examine the *Statute-book*, which hath convinced me of the contrary.

C. Let me beg the favour (Sir) to show me any *Statute* that compels every private person to take the Oath of *Allegiance*.

W. 'Tis very strange you should forget it. I pray you, Sir, look into the seventh year of King James cap. 6. sect. 26. pag. 1046. Keobles Edition, where it is enacted, *That it shall be lawful to and for any two Justices of the Peace (whereof one of the Quorum) to require any person or persons of the age of eighteen years, or above, (under the degree of a Baron or Barons) to take the said Oath.*

C. What Oath I pray you Sir?

W. The very Title of the Act tells you, it is the Oath of *Allegiance*, and the Preface to it refers to the third year of K. J. c. 4 where the same oath is particularly expressed and Enacted.

C. But what if I will not take it when required by two Justices of the Peace?

W. Then you must take what follows, in the said Act of the 7th of K. J. viz. *that if any Person shall refuse the said Oaths, being of the age of eighteen years or above, when it shall be duly tendered, then the persons authorized, shall or may commit the same offender to the common Gaol, there to remain without Bail or Mainprize, until the next Assizes, or General Quarter-Sessions.*

C. What of all this? an honest man may enjoy quiet even in a Gaol, and his Family may be taken care of by some faithful friend.

W. But a man would not much care to choose a Gaol to be at quiet in, when he may honestly be at liberty by taking the Oath.

C. No certainly unless he be mad, But however if this be the worst of the business, it is tolerable enough.

W. This is bad enough; but what is behind is ten times worse: for the same Act saith, that at the next Assizes or Quarter-Sessions if the said person of 18 years or above, shall refuse to take the said Oath, being there tendered to him by the Bench, every person so refusing shall incur the danger of *PRÆMUNIRE* mentioned in a Statute of 16 R. 2.

C. My memory (I perceive Sir) very much fails me: Wherefore I pray inform me what it saith concerning a *Præmunire*?

W. The Statute is in the 16th of Richard 2. cap. 5. The words you have at the end of the second section, viz. *They shall be put out of the Kings protection; and their lands and tenements, goods and chattels, forfeit to our Lord the King; and that they be attach'd by their bodies, if they may be found, or that process be made against them by PRÆMUNIRE FACIAS.*

C. This is a fine *Præmunire* indeed, to expose my Family to utter ruine; and my self not only to perpetual Imprisonment, but to have my Throat Cut by every Villain who may do it without any fear of punishment for it. But surely no Justice of the Peace can be so cruel to Execute this Law upon me, whilst I live peaceably, only because I cannot take the Oath.

W. If we of the Church of England refuse Offices on the account of the Oaths, we may be sure, that our Enemies will accept them: and surely it is but ill trusting to our Enemies kindness.

C. Especially to such who watch all advantage against us, to be revenged of us for our late prosecution against them: And have been always ready to cry up all Church of England Men for Papists in Masquerade, and by consequence for the worst Enemies to the present Governours, and Government.

W. But

W. But they know well enough that the principles of the Church of England teach us *Passive Obedience* and *Non-Resistance*. So that though we cannot pretend to make a King, yet we can and must obey him when he hath the royal Authority, if we act as our Religion teacheth us; and can have no pretence to Rebel against him: And however our late practice seem to have varied from this rule, yet the Doctrine of our Church stands firm and unshaken, and is still the safest rule for us to walk by.

C. However I know *none* are so blind as they that will not see. So that there is but little reason to expect any favour from them.

W. The best way then to prevent their power and malice is to take the Oath; since your own Casuist warrants it to be Lawful, for Bishop *Sanderfon* tells us (*de Juram.* pag. 97. l. 16.) of Oaths, that are only unlawful, for want of due Authority, *At si præter imperium, vis insuper adhibeatur &c.* — But if besides the command, force be added, so that there be no refusing without the greatest danger, it is to be determin'd, that a truly Religious Man may admit of such an Oath.

C. Aye, but is there not something follows that makes much more against it under our present circumstances? *viz.* dummodo nihil contineat &c. If so, that the Oath contain no matter in it self Unlawful; or contrary to the publick Laws, or derogatory to the right of any third person; otherwise, (I pray you observe carefully what followeth) be ought to refuse to take the Oath, even with the utmost danger of his Life.

W. But how doth this make against the Oath in question? Since I have (I think) already proved that there is nothing in the matter of it that is in it self Unlawful; nor any thing contrary to the Laws of the Land, nay that the Laws do particularly take care to Indemnifie all persons that pay true Allegiance to The King for the time being, and that all persons above 18 years of Age, are bound by Law under pain of a *Præmunire* not to refuse to take the Oath of Allegiance.

C. Yes Sir, I cannot deny but you have proved it: But the greatest difficulty is still behind *viz.* The third condition of an Oath, without which we ought to refuse it even with our utmost peril. For how can any thing be more contrary to the right of a third person (who is so well known that he need not be named) than this new Oath is to his right?

W. I shall wave all that discourse, that is common against King *James the 2d.* by which some would perswade us he hath forfeited his right to our Allegiance; and all that might be said for the right.

right of our present King and Queen; because I apprehend the *Titles to Crowns* are things so far above Subjects, that it is unbecoming them to make them their matter of dispute; and because (of all things) I hate to speak any thing of any *Crown'd-Head* to his disparagement.

C. I am much of the Opinion, for I think *Titles to Crowns* are too high removed from us; and that *Crown'd-Heads* ought to be more Sacred than to have any dirt thrown upon them. But how then will you give me any satisfaction about this matter?

W. Very easily Sir if I am not mistaken, for Sir if you well consider the matter of this Oath, *there is no such thing as the right of any person to our Obedience either named or implied in it.* For we only Swear Obedience to the King and Queen, without the least word concerning any person's right to be obeyed by us. So that the matter of the Oath doth *no ways* derogate from the right of any third person; for it no ways meddleth with it.

C. Sir, I do not well understand this discourse; wherefore I pray be so kind as thoroughly to inform me in it.

W. If you will please to look into the former Oath of Allegiance made in King James the first his time and used ever since, till this was made; you will see so apparent a difference as will be sufficient for your full Information in this matter.

C. That I will do with all my heart, it is in (3 Jacobi cap. 4. § 15.) viz. *I do truly and sincerely acknowledge, profess, testify, and declare in my conscience before God and the World, that our Sovereign Lord King James is Lawful and Rightful King of this Realm, and all other His Majesty's Dominions and Countries.*

W. Hold Sir, you have read far enough. For is there any such thing in this new Oath, as *Declaring King William and Queen Mary to be Lawful and Rightful King and Queen?*

C. No Sir, there is not.

W. But there is in the former, is there not?

C. Oh! Now I see the difference very plain. In this Oath we only Swear Obedience to W. and M. King and Queen in Fact; but in the former Oath of Allegiance we Swore to the right of our Kings. So that this last Oath (those words *Lawful and Rightful*) being left out, doth no ways intermeddle with the Right of any King whatsoever.

W. You have hit right on't Sir. So that we are hereby freed from Swearing, to that which might not be so apparently true to all persons that are bound to take the Oath; and from meddling with the Right and Title of our Supream Governours in Swearing Obedience to them

C. Yes

C. Yes Sir, I see we are freed thereby from great Snares that might have quite entangled the Consciences of all honest Men.

W. We owe it as I have heard, to the Wisdom and goodness of the House of Lords, and more especially to the E. of Nott. and E. of Dan. whose names ought always to be mentioned with Honour and Gratitude, for so signal a service to our Church and Nation.

C. I fully concur with you in it : But yet do not think that this sufficiently answers the Objection I proposed. For was not our Allegiance due to another King by right, and do we not Swear to pay it to the present King in Fact ? And is not this then an Unlawful Oath ? Hear (I pray you) what Bishop Saunderson saith in this case (*De Jurament. prælect. 4. § 5. pag. 92.*) *Non licet ei, qui alterius potestati subest, &c. It is not Lawful for him, that is subject to the power of another Man, to determine any thing of those matters in which he is subject, by an Oath, without the Express, or at least the tacit consent of his Superiour.*

W. Read but the same Author (*ibid. pag. 94. lin. ult.*) what a Tacit consent is, and that I think it will in a great measure solve the doubt.

C. I should be very glad to find it so ; and therefore will read it in his own Language : *Consensum Tacitum intelligo, cum ex rei æquitate, vel alia probabili causa, verisimiliter præsumi potest Superiorem factò consensurum, vel saltem non contradicendum, si consuleretur.*

W. I pray you mind the words : *By a tacit consent I understand when by the equity of the thing, or by any other probable cause, it may be probably presumed, that the Superiour if he was consulted, would indeed consent, or at least not oppose.*

C. But Sir, can you think that any King, if he was ask'd, would consent, or not oppose that his Subjects should swear Allegiance to any other person, whilst he himself is alive, and ought to reign over them ?

W. Truly Sir, I think there is a very probable cause to believe it, viz. the equity of the thing.

C. I pray Sir, where lyes that equity.

W. It lyes in this, that since the King which is supposed *de jure* cannot protect his Subject from utter ruin and destruction, for refusing the Oath of Allegiance to the King *de facto*, he should give them leave to take it (and so to preserve themselves) at least so long till he can retrieve his power to protect them.

C. This seems to be but Equity : yet (methinks) it would be the ready way for a King never to recover his power again.

W. We have seen the contrary in the Restauration of King Charles.

* Charles II. and I am sure, if the Subjects be destroyed for refusing Allegiance to the present Powers, the King *de Jure*, can never recover his Subjects again.

C. That is certain ; but (I cannot but think) the equity you talk of, would be more evident upon the principles of an *Original contract*, and the *reciprocation of Protection and Subjection*.

W. No doubt of it, if they were thoroughly proved ; but I would argue with you according to your own principles of the *Church of England*.

C. On my reputation, Sir, you offer me as fair as I would desire.

W. You know the highest Monarchical-men that ever were of our Church have founded *the right of Kings over their Subjects, upon the right of Parents over their Children*.

C. Yes Sir, but from this principle I doubt you will scarce prove what you proposed.

W. I'll try Sir if you please. Suppose then (as amongst the *Americans* it hath been) that the Government was only that of Families, and that a Father of a Family is forced (though never so unjustly) to flee from his House, and to leave his Children and Servants under the power of another person (who by their concurrence) hath forced him away ; nay, that they have so far joined with the Invader, as by a Convention chosen out of their own Family, to yield up their Fathers Authority to him, and to frame on Oath, which all of that Family should take, or else be put out of the protection due to them as Members of it. Would it not be very hard, unequitable, and unnatural in the expelled Father (if his consent was ask'd) to deny his consent to them to submit to such an Oath, and rather to desire that they should be destroyed, and his Family utterly extinguished, than that they should take it?

C. I see no reason to think otherwise:

W. Well, then (Sir, might they not justly presume of their Fathers consent in this case) and so take the Oath?

C. On my word, Sir, I think so ; only I have one exception to make against taking this Oath, which I doubt will be very troublesome to you to satisfy me in. The objection is this, *viz.* in the words of my old Friend so often before named : *Prior obligatio tollit posteriorem* : A former obligation taketh away the latter ; nay, he comes home to our present case (*de Juram. oblig. pag. 102.*) where he saith, that a King having sworn that he will govern according to the Laws of the Land ; and the Subjects having sworn to pay him due Fidelity and Obedience, *utriq; obligatur quod sui est officii fideliter facere,*

oath: Both of them are bound faithfully to perform the duty they have sworn to.

W. But may not the King's male-Administration of his Government, or the Subjects Disobedience, cancel this Oath?

C. No, Sir, for so he positively affirms, in the same place, in these words, *Ita ut, neq; rex solutus est a suo juramento, si subditi debitum obsequium non præstiterint, nec subditi a suo si rex a justitiæ tramite deflexerit.* So that neither is the King freed from his Oath, though his Subjects do not obey him as they ought; nor the Subjects from their Oath, though the King doth not govern them according to justice.

W. But may not some other power dispence with this Oath?

C. In answer to your question, I refer you to the same Book, prælect. 7. pag. 197. lin. 21. I pray, Sir, turn to it, and read the words.

W. *Nec Papæ, nec Senatui, nec ulli Synodo, &c.* Neither the Pope, nor the Parliament, nor any Council, nor any Governour Ecclesiastical or Civil, hath the Power of Dispensing in Promises, Contracts, or Oaths; or of Absolving any one from the obligation he was under before the Dispensation was made.

C. Nay, he further declares, that if such an Oath, as now we discourse about, should be taken, it would be absolutely void in it self; *ex irritatione legitimi Superioris, ibid. pag. 202.* his words are very remarkable.

W. Therefore, Sir, I will not grudge the pains to read them: *Si quis alienæ potestati subditus, &c.* If any that is subject to the Authority of another person, (as of his Master, his Father, or his Prince,) shall either on his own accord, or being moved by force and fear, take any Oath to which he believes his Master, his Father, or his Prince, if he was present, would not consent, he is bound not to keep that Oath, it being contrary to his Duty, for the obligation of that Oath is dissolv'd by the contrary command of his lawful Superior.

C. Is not this clearly proved from the Sacred Scripture it self? See Numbers, cap. 30. v. 3, 4, 5, & 6, 7, 8 & 9.

W. The example there is very plain, viz. That if a woman vow a vow, and her father, or her husband, disallow her, the vow which she vowed, and the oath which she uttered with her lips, wherewith she bound her Soul, shall be of none effect.

C. And the reason of the thing is no less apparent; for none can be *sui juris*, i. e. free to dispose of himself, in such matters wherein he is bound to another person, either by oath or promise, or natural subjection. Now when we are under an obligation of a former oath to our former King, which we cannot be freed from by his male-administration, which no power on Earth can dispence withal,

and which makes void any subsequent oaths to any other King, Is it not a great affront to, and mockery of the Divine Majesty, to call God to witness, that I will perform an oath which I know is not in my power to perform; and to appeal to God to punish me if I do not keep my oath, when I know before I take it, that the oath is void in it self, and that by the same obligation I am bound not to keep it?

W. But suppose I have never taken the former Oath of Allegiance, how doth your objection concern me?

C. If you have taken the oath to any of King *James* his Predecessors, you must acknowledge your self as much bound to him, as though you had taken it to himself; for so saith our most judicious *Cassius* (*de Jurament. pag. 105. lin. 6.*) *Si quis subditus, &c.* If any Subject or Souldier, takes an Oath of Fidelity to his King, or to the General of an Army, he shall be thought to have taken that Oath, even to the Successors in the same Dignity: Nay, the very words of the former Oath of Allegiance, do expressly bind us to bear true Faith and Obedience to King *James* the First, his Heirs, and lawful Successors.

W. But how if I have not taken it at all?

C. Yet still you cannot but be obliged by your natural subjection, being his natural born subject. Nay, the Laws of our Nation do oblige every Subject from eighteen years old and upwards, (as is already proved from that Statute, 7 *Jacobi* cap. 6. Sect. 26.) under pain of being put out of the protection of the Kings Laws, to take the Oath of Allegiance, when it shall be tendered (according to Law) by two Justices of the Peace, &c. So that your having enjoyed the protection of the Laws, supposeth you have taken it, or at least that you was willing to take it; and by consequence, that you be as much obliged by that Oath, as though you had actually sworn it.

W. I will not put you to prove that consequence, for I think this evasion of your objection signifies little; the greatest part of our Nobility, Gentry, and Clergy, having actually taken it.

C. Well then, why are they not still bound by it? And how come they to be loosed from the obligation of it?

W. You have ask'd me a question about this matter; I pray, Sir, give me leave to ask you one more, *viz.* How if it can be proved, that the Oath to the former King is (in our present circumstances) utterly void, and the obligation of it quite dissolv'd?

C. Then I think the objection would be fully answered.

W. First then I shall endeavour to prove, that the former Oath (during our present circumstances) is utterly void; and I need, I think, use no other Argument but only this, That the matter of the

the former Oath is (under our present circumstances) utterly impossible for us to perform. To this purpose, see Bishop Sanderson (*de Juram. prælect. 2. Sect. 12 p. 45.*) where he lays down this Maxim, *Rei impossibilis nulla est obligatio*; there is no obligation to an impossible thing. And he saith, (*ibid. lin. 7.*) This is so evident in it self, that it is the very Rule of all Law, and needs no proof.

C. I cannot but consent to the truth of this Maxim? but why is it impossible for me to perform Allegiance to K. James?

W. Can a man serve two Masters? Is not all the power of the Nation actually in the hands of the present King? Have I not already proved that I am bound by the ties of Gratitude, of Duty to my self, my Family, and the Publick, to submit to the present Power? So that it is impossible both *impossibilitate facti, & juris*; for under our present circumstances, how can I know the commands of the former King? Or if I did know them, how can I obey them, at least, without an apparent hazard of my own life, and of the ruine of my Family, if not of the Nation? And you know the rule is, *id tantum possumus, quod jure possumus*: That only we may do, which we can do by right; i. e. which no ways contradicts any part of our duty.

C. But if I cannot act, I may suffer for him; that is not impossible.

W. Yes, you may so, Sir, if you please; but *cui bono*, to what purpose? What benefit would your present suffering be to the former King? Would he be any thing the better for the ruine of his friends, and those who would pretend to be his subjects?

C. However if I cannot act for him, it is not impossible but I may keep my self from acting against him. If I cannot pay him Allegiance, can I not refrain from swearing Allegiance to his enemy?

W. Yes Sir, there is no impossibility in the thing (it may doubtless be done) but there is an impossibility with respect to the Law.

C. I pray you Sir, make me understand that.

W. It is so plain in it self, that I wonder you should not apprehend it at the first hearing, viz. The thing it self, i. e. my refusing to take the Oath of Allegiance to King William, &c. is not impossible for me; but since I cannot refuse the Oath without ruining my self and my family (by incurring a *Præmunire* according to the Statute before mentioned, 7 *Jacobi cap. 6.*) it becomes impossible for me, according to that duty which I owe both to my self, Relations and Dependants.

C. Still I need not take it, till the utmost extremity, i. e. till I

have suffered Imprisonment ; and that the Oath be tendered to me in open Court, either at Assizes or Sessions.

W. Since this delay would give a scandal and offence to the present Governours, especially in us of the *Church of England* ; and probably, exasperate them against us and our Religion, since evil men, *enemies* to the Government, both of *Kings and Bishops*, might thereby get into our Offices of Power and Trust, both in Church and State. Nay, since (as I have already proved) there is nothing in the matter of the Oath, that is unlawful, but rather our duty in the present circumstances : And lastly, since we have no great reason to presume of the consent of the person concerned, *viz.* Of the former King, such a delay would be impossible for us, without being wanting to our Duty which we owe to our Nation ; nay, to our Church, and to our most Sacred Religion. I shall proceed to another argument or two, to prove what I undertook, *viz.* that the former Oath of Allegiance is actually void, and the obligation utterly ceas'd, during the present circumstances of Affairs.

C. Sir, you will infinitely oblige me by it.

W. The second Argument I shall propose is this, *viz.* The conditions that are necessarily understood in every Oath.

C. I pray you Sir, what are they ?

W. The old Friend, our incomparable *Casnist*, will tell you Sir, (*de Juram. prælect. 6. Sect. 12. pag. 177.*) *Si conditio nulla sit expressa in juramento, &c.* If there be no condition expressed in the Oath, then all the conditions or exceptions ought to be understood, which by right, or common use, are implied in it, *viz.* *Quoad potero, & licebit ; rebus in eodem statu manentibus, &c.* namely as far as I can, and it is lawful for me ; things remaining in the same state, and such like.

C. Very good ; but how do you argue from thence ?

W. I argue thus : In the Oath of Allegiance there is no condition expressed, therefore all those conditions and exceptions are understood before-mentioned ; and no man can be bound by it beyond those necessary exceptions : So that when the state of affairs is so changed (as now it is) that it is not in my power, nor is it consistent with my duty to my self, my Family, and the Commonwealth, to keep my Oath which I made to King *James*, then I cannot be bound by my Oath to do it ; but the obligation of that Oath must cease during the time of such an alteration.

C. The reason for that, good Sir.

W. My reason Sir, is, *No man can do more than he can do ;* nor can a man be bound to do any thing more, by any Oath or Obligation whatsoever.

C. But

C. But Sir, if you would please to be serious, I believe you can give me some parallel instance, that might more fully clear this point to me.

VV. Suppose then, that I had sworn to your self, that upon this day month, I will give you a Visit, and receive your Commands, at your own House, and that at that time I should be lock'd up Prisoner, so that I could not get out, unless I would venture to set the House on Fire, or to jump out of the Windows; do you think that I am bound by my Oath to hazard burning my self, or breaking my Neck to come to you? Or had you any such intention to bind me to such apparent dangers by my Oath?

C. No, surely, God forbid.

VV. Then I think I need say no more to enforce this argument; but (if you please) will go on to the next.

C. With all my Soul, Sir, you cannot oblige me more.

W. The third and last Argument is this, *viz.* that *the matter of the Oath is ceas'd, and therefore the Obligation must cease also.*

C. I pray, Sir, explain this a little to me, for my old eyes and understanding need a little more light to discern things clearly, than perhaps formerly they did.

W. Bishop *Sanderſon* hath done it to my hand (*de Juram. prælect. 7. Sect. 7. pag. 202*) in these words, *fit Solutio juramenti obligationis ex Cessatione Materię; aut per mutationem aliquam notabilem circa causam juramenti principalem: The obligation of an Oath is dissolved by the cessation of the matter of it; or by any remarkable change, about the principal cause of the Oath.*

C. Still, methinks, I am a little in the dark about it.

VV. To enlighten you a little, I pray, Sir, answer me some few questions; as first, What is the matter of our Oath to King *James the Second*?

C. The matter of it is to own him for our King, and to pay him Obedience as our King.

VV. Secondly, What was the principal cause of this Oath to him?

C. Because he was really our King both in fact, as well as in right.

VV. Thirdly, Is there not now an alteration in the matter, so that we cannot pay our obedience to him with any safety to our selves? And is there not a greater change in the principal cause of our Oath to him, *viz.* so that now he is not our King in *actu*?

C. Though he be not our King in fact, yet he may be in right; and therefore we are no less bound to obedience to him now than before.

VV. Supposing

VI. Supposing he be so, yet I may deny the consequence; even upon the Authority of the example given us in the same place (*ibid.* pag. 263) by the same most profound *Casuis*t so often named.

C. I pray, Sir, what is that example?

VI. It is this, *Si quis miles juret obsequium belli imperatori, &c.* If any Souldier Swears Obedience to the General of his Army, the *W*ar being ended, and he no longer General, the Souldier is no longer bound to obey him.

C. I do not apprehend this reacheth our case.

VI. But suppose that the General should out of fear leave his Souldiers, and that the Souldiers (though never so unjustly having frighted him away by their mutinies against him, or universal desertion from him) should choose another General; or that any other person should by force, or Conquest, or Consent, in his absence, be actually invested with the General's Office, Is not the Army (during this change) discharged from their Oath to their former General; and rather than suffer as Mutineers for refusing it, may they not lawfully swear Obedience to their present General in fact, though the other hath the right of the Office?

C. I have nothing at present to say against it, for it appears to me very reasonable, that when the root of an obligation is taken away, the obligation it self that springs from that root, must necessarily be taken away with it.

VI. Now the root of an Army's obligation to obey their General, or of a Nation's Allegiance to their Prince, can be nothing else but his being in an actual capacity to command and protect them; wheresoever therefore this actual capacity is chang'd (during the time the change remains) there the obligation to obedience must be changed also.

C. If so, then the former Oath to *King James*, doth no ways hinder me from taking this to *King William and Queen Mary*.

W. What else have you to except against this new Oath?

C. The next objection I have against it is this: That *this new Oath makes him that takes it, to call God to witness to a lye*; and what can be a greater, and more damnable sin than this? Is it not like the sin of *Annianias and Saphira*, viz. the lying to the holy Ghost, and tempting the holy Spirit of God?

W. This is (on my word) a most heavy charge, if it can be made out against it.

C. Why should you question it, is it not very visible? For do we not by this Oath own *William and Mary* to be *King and Queen*, and promise them obedience as such, whereas all the World knows that

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that the Regal Authority is pretended to be anothers Right ?

W. No more haste than good speed, I beseech you, Sir ; I believe a great part of our World is of another opinion. And supposing a man had a mind to assert King *William's* right of Conquest, possibly it would not be so easie a matter to refuse it.

C. No, Sir, it may be so, because it is not safe to dispute it.

W. Well, because I will not dispute the Titles of Kings, I will suppose the Right to the Crown to be in King *James* ; and yet (pardon me if I say) I think your objection is very easily answered.

C. I am so far from being angry at it, that I am very glad to hear you say so ; and should be much more rejoiced to see it proved.

W. Do we assert any thing in this Oath, to assert King *William* and Queen *Mary's* Right to the Crown ?

C. Do we not assert them to be King and Queen ?

W. But we do not swear to them as lawful and rightful King and Queen. Are not those two words *lawful and rightful* left out of the Oath, as it was on purpose to silence such objections as these are ?

C. I wish I could see how this objection is answered by it.

W. May there not be one King in possession, though another King hath the Right ? And is it a lye to own him King who is in possession ?

C. I confess, I do not well understand it to be otherwise.

W. I will put you a parallel case by which it may be more apparent to you. Suppose a Tenant swears to his Landlord, that he will pay him his Rent, and own him as his Landlord ; afterwards another gets the possession of the Estate (whether by right or wrong, that is not the question) and makes him swear to be Tenant to him, and indemnifies him by Law for it ; may he not take the latter Oath without telling a lye in swearing it ?

C. No surely, if the Tenant knows that the first Landlord is still his right, and Lawful Landlord.

W. Sir, you do not consider, that the Tenant doth not meddle with the right of the 2d Landlords at all in his Oath, but leaves that to be determined by the higher powers ; only he swears to turn Tenant to his New Landlord, and pay him his Rent so long as he is in Possession of the Estate, and can indemnifie him by Law for so doing. How is this contradictory to his former Landlord's right ; or how doth this give the lye to his own Conscience ?

C. In that he knows in his Conscience, the former is in right, and according to justice, his true Landlord.

W. Why ?

W. Why? hath he Sworn any thing against the right and title of his former Landlord? but if he cannot defend his Tenant but that his family must be ruined if he does not own him, who hath the present possession, and pay him the Rent, who can blame him for promising to do so?

C. I pray Sir apply this to the present case.

W. I cannot but think it applies it self as readily as can be. For by my former Oath I own *K. James* to be my King, and swear obedience to him; *K. William* gets the possession of the Regal power, and commands me to swear Allegiance to him, the Laws of the Nation indemnifie me in doing it, and on the other hand I may be ruined if I do it not, and that by Law too; against which ruine my former King, tho he may have the right, hath no power to preserve me. May I not then (during these circumstances) leave the dispute between the two Kings to God Almighty's determination, and prevent my own and my family's ruine by swearing Allegiance where I can do it with safety? nay, how do I lye by swearing him to be King in possession, when he really is so, though another may be King by right?

C. Oh! now I think I fully apprehend the thing: For as the Tenant, by taking such an Oath to the Landlord in possession, and paying his Rent to him, doth not swear or own that he hath a right to the Estate; so the Subject, by swearing or paying Allegiance to the King for the time being, doth not thereby swear or own his right to the Crown.

W. And to carry the parallel a little further, and more home to your present objection, As the Tenant by swearing to pay his Rent to his new Landlord, though he should know in his conscience that it is his former Landlords right, yet doth not swear to any thing that is false: So the Subject that swears to pay Allegiance to *K. W.* &c. though he knows in his conscience the Allegiance is due to a former King, yet doth no ways lye against his conscience in so doing.

C. Give me one good reason for that, and I shall be satisfied fully as to this objection.

W. The reason is this; because neither the Tenants nor the Subjects Oath doth any ways concern the right of the Landlord, or the King: Nor is the Tenant, or the Subject in that case any ways a competent Judge about the matter of the right of the Prince or Landlord, or any ways required by either of their Oaths to own or determine any thing about it.

C. After all the pains you have taken to satisfy my Conscience about

about this Oath, if I should still be in doubt about the matter, it would be thereby utterly unlawful for me to take it; for my old friend tells me (*de Jurament. prælect. 7. sect. 14. p. 219.*) *Juramentum oblatum reluctantæ, vel dubitante conscientia non est suscipiendum; An Oath imposed is not to be taken with a doubting or reluctant Conscience.*

IV. Before I return any answer to this objection, it will be very convenient to explain what is meant by a *doubting* and *relucting* Conscience.

C. Well Sir, first, then I pray tell me what is a doubting Conscience?

V. By a *doubting Conscience* I understand, when there appears no more reason on the one side of the question than on the other, to the Conscience of him that considers it: As to give you a plain similitude of a pair of Scales, which are so equally poiz'd that they are at a full stand, so that the least grain of weight added to either Scale will weigh down the other: So when the Conscience is in such a perfect *equilibrium* or suspense, that the least grain of Reason being added on either side of the question, will determine the matter, then it may be properly called a *doubting Conscience*.

C. Secondly, What is a *relucting* Conscience?

VI. By a *relucting Conscience* I understand, when the Conscience, though it doth not see any reason at present, yet fears or apprehends that there may be some reason which afterwards may appear, that may render the thing Unlawful concerning which it doubts at present.

W. Is it not Unlawful in either of these cases for me to act, whilst my Conscience hath any doubt about the matter, or any reluctancy against it?

V. First Sir, let me beg the favour of you to give me your reasons why you think so; and then I shall be the better able to judge whether they reach the present question betwixt us.

C. The Bishop in the same place gives you two most evident reasons, the first is this; because *that which is not of Faith is sin*, which is grounded on *Rom. 14. 23.* The second reason is grounded on *Jerem. 4. 2.* where we are commanded to *swear in judgment.* Now he that swears to any thing concerning which he hath any doubt or reluctancy in his mind, acts contrary to his belief, and to his own judgment; and so is condemned by his own conscience.

W. I do not think that the Bishop laid down this rule for all cases, for I think he must be apparently mistaken if he did, for his Texts of Scripture will no ways bear him out in it.

C. Consider but the words of St. Paul, and surely nothing will be more evident than such a deduction from them, Rom. 14. 22 & 23. *Thou hast faith, have it to thyself: Blessed is the man that condemneth not himself, in that which he alloweth. For he that doubteth is damned if he eats. For whatsoever is not of faith is sin.*

W. I have two reasons against any such universal consequence being deduced from these words, viz. first, from the original word, that is rendred *be that doubts*, which I think is not rightly translated: Secondly, from the coherence of the words compared with the whole Chapter, supposing our translation to be here-in authentick.

C. What is the exception to the translation?

W. The word in the Original is *ὁ διακρινόμενος*, which properly signifies quite contrary to *doubting*, viz. *thorowly-discerning*; and so it is rendred by the same Apostle in a place, which cannot possibly be otherwise interpreted, viz. 1 Corinth. 11. 29. where giving the reason why he that receiveth the Sacrament unworthily eateth and drinketh damnation to himself; the cause he saith is this, *μὴ διακρίνον τὸ σῶμα τῶ κυρίου*, not discerning the Lords body, (i. e.) because he doth not thorowly discern the difference betwixt the Consecrated Bread and Wine at the Lords Table, and common Bread and Wine at his own Table; but useth them both alike; for this is the grand fault that he chargeth them withal, v. 21. *that one of them was an hungry, and another was drunk even at the Lords Table*; which they could not have been so wicked to have been guilty of, if they had thorowly understood what they were about.

C. If the word be so rendred, I must needs own there is no such consequence about a doubting conscience to be deduced from them. For then the Apostles words are these, *He that is thoroughly convinced in his mind concerning eating, that it is not lawful for him to eat, is condemned* (for so the word *κατακρινεῖται* ought to be rendred) *if he doth eat. For whatsoever is done contrary to the clear conviction of a mans conscience is a great sin in him.*

W. But supposing the word be properly here rendred, *He that doubts*, yet the scope and coherence of the words compared with the whole Chapter, will not bear any such universal deduction as you urge from them.

C. That I would gladly be convinced of.

VV. The Apostle in this Chapter speaks of nothing else but *meats*, v. 2 & 3. and *days* and times, v. 5. as appears more fully by that general rule he lays down, v. 14. *I know and am persuaded, through the Lord Jesus, that there is nothing unclean in it self; but*
unto

unto him that judgeth any thing to be unclean to him it is unclean ; and urgeth, that therefore in these matters we should not judge one another, nor despise any one for them ; but that *every one should be fully persuaded in his own mind*. The reason of which discourse is apparent, *viz.* because some of the *Jewish* Converts to *Christianity*, were very strict in the observation of the Ceremonial Law concerning meats, and times ; and others of the *Gentiles*, who believed the Ceremonial Law of the *Jews* to be abolished, were as strict and severe against any such observation, and did censure and condemn one another about these matters, concerning which there was no Law then in force, the *Jewish* Ceremonies being quite abrogated. The *Apostle* therefore concludes, *Thou hast faith have it to thy self, i. e.* thou rightly understandest thy own liberty in these indifferent things, make use of this liberty so as not to censure, despise, or scandalize those that do not understand them so well as thy self: *Blessed is he that condemneth not himself in that which he alloweth*. Thou art in this happy that thou attest not in such things contrary to thy Conscience ; and the reason of this happiness he gives in the following verse, *For he that doubteth is condemned if he eat*. For in these indifferent things, concerning which you have no command either of God or Man, if you do them with a doubting conscience, you shall be condemned in so doing, for that you might have let them alone ; the reason of which he gives in this following Maxim, *For whatsoever is not of faith is sin ; i. e.* for whatsoever things of this sort (which you have a liberty to do, or not to do) are done, whilst any doubt remains concerning them, are sins.

C. So that this Maxim *whatsoever is of Faith is Sin*, is to be understood of indifferent things, and no other.

W. This is evident by the example the *Apostle* gives, *viz.* *for he that doubteth is condemn'd, if he Eat*. For the Eating there, must be understood of the Eating such things as were unclean by the *Jewish Law*, which being abrogated by *Christ*, there was no Law that commanded Christians either to Eat them, or not to eat them. Wherefore a particular Example being given of a general rule, the rule it self must be understood of such things only which are *ejusdem generis* (i. e.) of the same sort with the example, and of no other, i. e. only of indifferent things.

C. So that it cannot be understood of things of any other nature, i. e. of such things as are either commanded, or forbidden by God, or the Magistrate. For in all such matters doubts and scruples are to be laid aside.

W. The matter then in debate betwixt us (*i. e.*) the Oath of Allegiance, being commanded by the present Authority, and necessary for the publick peace, and not to be omitted without the ruine of my self and Family, cannot be of that sort of things which may be done, or may be left undone; and by consequence ought to over-rule all doubts or reluctance in me.

C. But will not the other reason urged by the Bishop from *Jerem. 4. 2. Thou shalt Swear, the Lord liveth, in truth, righteousness, and judgment,* reach our present case?

W. No I apprehend not, for all that is meant by that precept is this, thou shalt Swear *truly, honestly, and seriously.*

C. But how can he that Swears to a thing which he doubts of, Swear *honestly, and seriously, or according to judgment,* when for all that he knows to the contrary the matter of his Oath may be unlawful?

W. If you remember what I told you of a Doubting-Conscience that it is perfectly in an *Equilibrium*; then the objection returns upon your self. For why then should he not Swear according to his own judgment, when for all that he knows to the contrary, the Oath may not only be Lawful, but necessary for him to take?

C. But supposing his Conscience be *relucting*, so as that he fears there may be something that may appear hereafter to be evil in the thing; what must he do in that case?

W. He may as well fear that something may hereafter appear to prove the thing to be his duty: So that this reluctance as well as doubtfulness of Conscience (if a Man will act according to sound judgment) neither binds him to do, or not do such an action, about which he is *sui juris* that is wholly at his own disposal: But only to Suspend Acting till he may be better satisfied.

C. But supposing the Command of any Authority makes the thing necessary to be done for the publick, or for his private safety, so that he is not *sui juris* in it; how then?

W. Why then, he must lay aside his doubtfulness, and reluctance, because they ought not to take any place against his duty, whether it be private or publick. So that since I have proved that this Oath is in the matter of it lawful, and that we cannot refuse it without apparent damage to the publick welfare, and *incurring a præmunire*, by which we should destroy our selves and Families, no doubts nor reluctancies of Conscience ought to hinder us from taking it.

C. This discourse was very necessary to inform me how great an

an error it is to plead doubts and scruples, and reluctancies of Conscience, against the commands of lawful Magistrates, about matters of decency and order, and such like; nay, since I think it hath prevented another objection, which I was about to make against this Oath.

W. I pray you, Sir, what is that?

C. It is this, That *the taking this Oath to K. W.* is very scandalous to many people, especially in us *Church of-England-men*.

W. This I am very sensible of; for there is nothing more common than to hear men talk at this rate. "It is a fine *Church and Religion* that teacheth men to turn their Coats, and to keep to "no Principles of Loyalty, which before they so much boasted of. "Do you not see what Weather-cocks these Church-men are, that "will turn with any Wind that blows? They will swear, or for- "swear, backwards, or forwards, or any ways for their Interest; " 'tis gain is their Godliness, &c.

C. Ay, Sir, I have heard too much of such stuff: For even the *Plough-fobbers* are apt to turn *Orators* against us; and their Rhetorick will be much more fluent, if we should generally take this new Oath which is so much contrary to the former.

W. Some creatures will *bark and snarl* because it is their nature to do so; but it is below any Wise man to take notice of them.

C. But however, no good Christian should give any just occasion of offence to any one, for we know that our Saviour pronounceth a *Woe* and a dismal Sentence against such *by whom offences come*; and saith, *that it is better for him that he had never been born, &c. Luke 17. 1 & 2.*

W. 'Tis very true, but when I do nothing but my duty, if any take offence at it, 'tis he that makes the scandal and not I.

C. Yes, Sir, the reason of scandal I am sensible by the former discourse, is much the same with that of doubts, and takes place in no other things but such wherein I am wholly left to my own liberty.

W. Very true, Sir, for this is evident from the same 14th Chapter to the *Romans*, where the Apostle directs them *v. 15.* not to scandalize their Brother, because of such indifferent things as meats or days appointed by the Mosaick Law, which is now abolished; but where the supream Authority of the Nation commands us any thing that is not unlawful, as this Oath of Allegiance; we are not to consider the offences that private persons may take at it, but are to take heed lest we offend those that are in Authority; and prejudice our selves, or the Church and Nation of which we are members, by our disobedience to them.

C. Yes

C. Yes Sir, this hath always been the doctrine of the Church of England; and the reason of the thing doth plainly command it: for in such things private persons are not *sui juris* at their own disposal, but must be governed by their Superiours; so that the Law of avoiding Scandal cannot bind us in any such cases.

W. No Sir; for if it did, our Governours could command nothing (tho never so good and necessary) which we could safely obey, but that some or other, either through ignorance, pride, or peevishness, might take offence at it.

C. But then it must be supposed that the Authority commanding be a lawful Authority: and this brings me to the last objection I shall make against this new Oath of Allegiance, *viz.* That the Authority enjoying it is an unlawful, or at least not a sufficient and due Authority.

W. I cannot deny that this is a good exception against such an Oath as we may avoid taking without prejudice to our selves or the publick; but where force is added to the Authority our incomparable Casuist tells us, (*de juram.* p. 97 & 98.) a good man may take such an Oath, if so be that the matter of the Oath contains nothing in it self unlawful, or contrary to the publick Laws, or derogating from the right of any third person.

C. Yes, Sir, I well remember the place, and that you have already proved all these three conditions to be contain'd in this Oath; and that therefore we may take it, though the Authority commanding it should be unlawful.

W. Nay Sir, the same Author is more direct and positive in this matter: For he saith (*de Conscient.* pag. 225.) Si lex injusta est ob defectum justitiæ, quam legalem vocant, injusta ut sit, obligat tamen subditum. If a law be unjust, for want of that which they call Legal Justice, though it be so unjust, nevertheless it binds the subject, and he gives a very good reason for it: Quia subditus non est legitimus & idoneus iudex justitiæ legalis; because the subject is not a lawful and fit judge of Legal Justice. Nay, he further saith, (*ibid.* p. 228.) Si ob apparentes utrinque nationes subditus nesciat, &c. If upon the account of probable reasons on both sides, the Subject cannot know whether the law be just, or otherwise, the Subject is in that case bound to actual obedience; so that he sins if he does not obey, and if he does obey, does not sin. And this is not merely *gratis dictum* his own bare assertion, but he gives us two substantial reasons for it; first, because in doubtful cases, the condition of the possessor is rather to be chosen; that is of the Legislator, than of the Subject. Second, In a doubtful matter the safer part is to be chosen, but it is much safer that any one should think

think himself bound who is free, than that he should think-himself free, when he is really bound.

C. Now I believe it would be no difficult matter to prove that the Authority imposing this new Oath of Allegiance is at least very probable, since it is (all circumstances considered) the highest and best Authority that could be had.

IV. I have too long detained you from your rest to undertake that proof; and therefore shall conclude all at present with another saying of the same Right Reverend *Casuiſt* (de Conſcien. pag. 221.) *Lex inſuſta etſi fieri non debuit, facta tamen valet: An unjuſt Law* (i.e. for want of Legal Juſtice, for of ſuch a Law he ſpeaks) *although it ought not to be made, yet it is valid when it is made.* And the reaſon he gives is ſufficient to warrant our Obedience, *viz.* *For it may ſo come to paſs, that what could not be commanded without ſin, may yet be obeyed without ſin.*

C. So that let the Legiſlators look to the Legality of their authority, it is nothing to me; it becomes me who am a Subject to remember that axiom on which he grounds all this diſcourſe, *viz.* *Vera obedientia non eſt diſputatrix: True obedience is not diſputative.*

VV. And for that reaſon have I, in obedience to your commands, betray'd my indiſcretion, tho, I hope, the authority and reaſons of ſo learned, pious, and judicious a *Casuiſt* as Biſhop *Sanderſon* will not eaſily be thought contemptible. I therefore commit you to Gods protection, and bid you a good night.

F I N I S.